

Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

CITY COUNTY COUNCIL
CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

PROPOSAL NO. 131, 2010

INTRODUCED: 04/26/2010

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillor Speedy

DIGEST: authorizes the transfer of the waterworks and the sewage works of the City of Indianapolis to Citizens Energy Group

SOURCE:

Initiated by: Office of the Mayor

Drafted by: Chris W. Cotterill, Chief of Staff

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL:



Date: April 21, 2010

CITY-COUNTY SPECIAL ORDINANCE NO. , 2010

A PROPOSAL FOR A SPECIAL ORDINANCE authorizing the transfer of the waterworks and the sewage works of the city of Indianapolis, Indiana, and certain related matters,

Witnesseth that:

WHEREAS, the City of Indianapolis, Indiana (the "City") and the Sanitary District of the City of Indianapolis (the "Sanitary District"), acting by and through the board of public works, ("Board of Public Works"), the governing body of the City's Department of Public Works, own and operate, pursuant to the provisions of Indiana Code 36-9-25 and related statutes, a wastewater collection and treatment system, including without limitation, the Belmont and Southport wastewater treatment facilities (the "Wastewater System"); and

WHEREAS, the City and the Waterworks District of the City (the "Waterworks District" and collectively, with the Sanitary District, the "Districts"), acting by and through the board of directors ("Waterworks Board" and collectively with the Board of Public Works, the "Utility Boards"), the governing body of the City's Department of Waterworks, own and operate, pursuant to the provisions of Indiana Code 8-1.5-4 and related statutes, a water system (the "Water System" and collectively with the Wastewater System, the "Systems"); and

WHEREAS, the City recognizes the impact Wastewater System operations have on the quality of water in Indianapolis rivers, streams and aquifers and has therefore determined that an integrated watershed-wide effort is necessary to achieve the ultimate water quality goals of the City; and

WHEREAS, such an integrated effort will (i) complement control measures being undertaken to ensure compliance with water quality based requirements of environmental laws, such as the Clean Water Act; and (ii) enhance the ability to maintain the quality of the City's water supply in accordance with requirements such as Indiana's water quality standards and National Pollutant Discharge Elimination System permits; and

WHEREAS, studies have shown that (i) issues related to urban water supply and demand should not be considered independently of issues related to wastewater disposal and water reuse; and (ii) water management strategies and opportunities for water reuse can only be properly evaluated in the context of their

interactions with the overall waterworks system; and

WHEREAS, the U.S. Environmental Protection Agency has recognized that ensuring a sustainable water supply and infrastructure is a top national priority and has led collaborative efforts to integrate the management systems for water and wastewater operations, such as establishment of the Sustainable Water Infrastructure Initiative designed to ensure that all components of our nation's water infrastructure are capable of meeting future needs; and

WHEREAS, other governmental entities have recognized the benefits of structuring integrated management systems that are responsible for the efficient and environmentally responsible provision of drinking water, wastewater collection and treatment and water and wastewater transportation services to residents of their communities; and

WHEREAS, the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities and all of the existing or future divisions and affiliates, including but not limited to the affiliate designees referred to in the MOU (as defined herein), and the affiliates created pursuant to the Interlocal Agreements (as defined herein), pursuant to which the Board of Directors for Utilities holds or will hold assets in public charitable trust for the benefit of its utility customers and the inhabitants of the City) (collectively, "Citizens") is vested by Indiana Code 8-1-11.1 with the power to own and operate utility properties of any kind within the City, or outside the City within the limits authorized by law, and to own all utility property related or belonging thereto; and

WHEREAS, Citizens currently provides local gas distribution services to the City and the residents of Marion County, Indiana ("Citizens Gas"), and in conjunction therewith owns and operates a steam production, transmission and distribution plant and a chilled water production and distribution plant for the provision of steam service and chilled water in the downtown areas and near downtown areas of the City ("Citizens Thermal"), and through its direct and indirect affiliates engages in other energy-related ventures; and

WHEREAS, the City issued a Request for Expression of Interest regarding integration of the Systems into a combined operation, as it explored ways to achieve operating efficiencies, to improve customer service, to keep customer rates as low as possible and to raise capital to fund important City infrastructure needs; and

WHEREAS, Citizens investigated and continues to investigate and study ways in which it may more efficiently and effectively provide service to its customers and otherwise satisfy the purposes of providing utility services in public charitable trust to its utility customers and the inhabitants of the City; and

WHEREAS, Citizens has determined that the combined operation by Citizens of the Systems, Citizens Gas and Citizens Thermal will result in operating and capital project synergies for the benefit of the City and its inhabitants, thus resulting in lower rates for all utility customers than would otherwise result in the absence of such combined operation; and

WHEREAS, Citizens' unique structure will ensure that local control over critical Central Indiana utilities will continue with the same invulnerability to takeover by distant companies and investors that has protected the utilities held by Citizens in public charitable trust for over one hundred years and will also ensure local reinvestment and community-based decision making; and

WHEREAS, Citizens responded to the City's Request for Expression of Interest and engaged in extensive discussions with the City, which resulted in the City and Citizens entering into a Memorandum of Understanding, dated March 9, 2010, in the form attached hereto as "Exhibit A" and incorporated by reference herein (the "MOU") which, among other provisions, provides for the acquisition by Citizens of all real and personal property, all cash and cash equivalents, all contracts, licenses and leases, and all intellectual property used, necessary or important in the operation of the Systems, unless otherwise excluded by mutual agreement and sets forth the terms and conditions which must be satisfied before any such transaction may proceed; and

WHEREAS, the City, the Districts and Citizens have the power under Indiana Code 36-1-7 to enter into and have determined that it would be advisable to enter into to one or more Interlocal Cooperation Agreements for the Provision of Utility Services (the "Interlocal Agreements") in substantially the forms attached hereto as "Exhibit B," including the creation of an affiliate of Citizens consisting of a separate legal entity organized as an

Indiana nonprofit corporation and controlled by Citizens ("Authority") for the purpose of providing for the administration of an Interlocal Agreement through the Authority or by delegation to Citizens and for the purpose of acquiring, owning, operating and exercising all of Citizens', the City's and the Districts' powers that are necessary, useful or appropriate to the acquisition, ownership and operation of the Systems; and

WHEREAS, each of the City, the Districts and Citizens are political subdivisions under Indiana Code 36-1-2-13 and are therefore governed by Indiana Code 5-22-22, 36-1-7 and 36-1-11; and

WHEREAS, the City-County Council of the Consolidated City of Indianapolis and Marion County (the "City-County Council") may create and terminate City departments, divisions, offices and other agencies and, except as otherwise provided by law, transfer the powers, duties, functions and obligations to or from such departments, divisions offices and agencies; and

WHEREAS, the City and Citizens have determined that it would be advisable for Citizens to acquire the Systems in order to achieve the benefits of integration and operating synergies described above; and

WHEREAS, the City will enter into one or more Asset Purchase Agreements (collectively, the "Definitive Agreements") with Citizens providing for the acquisition by Citizens of the Systems; and

WHEREAS, the purchase price and other terms and conditions upon which Citizens will acquire the Systems, shall be as set forth in one or more Definitive Agreements, consistent with the provisions of the MOU; and

WHEREAS, the City has found the transfer and delegation to, and vesting in and exercising by Citizens, of all of the powers, duties, functions and obligations of the Districts that are necessary, useful or appropriate to the acquisition, ownership and operation of the Systems and the sale and transfer and operation of the Systems to Citizens on the terms and conditions set forth in the MOU and as set forth in the Interlocal Agreements would be expedient and in the best interests of the Districts, and the proper serving of the inhabitants of the City and communities within Marion County and, in furtherance of interlocal cooperation, nearby counties; and

WHEREAS, the Authority:

- a. will be qualified to own, operate and finance the Systems under various federal and state statutes or regulations;
- b. will be organized as a nonprofit corporation under the Indiana Nonprofit Corporation Act of 1991, as amended, Indiana Code 23-17, et. seq., and will be exempt from federal taxation;
- c. will be governed by a Board of Directors, the members of which shall be those individuals who are appointed by the Board of Trustees for Utilities of the Department of Public Utilities of the City, from time to time in the manner set forth in Indiana Code 8-1-11.1-1, as members of the board of directors for utilities of Citizens;
- d. will be authorized to operate the Systems through the employees of Citizens and others;
- e. will have all of the powers of Citizens, the District and the City which are necessary, useful or appropriate for the acquisition, ownership and operation of the Systems;
- f. will be a "qualified entity" under Indiana Code 5-1.4-1-10;
- g. will be an "issuer" under Indiana Code 5-1-14-4(a);
- h. will meet the definition of an eligible borrower under applicable environmental requirements;
- i. will meet the State Revolving Fund/U.S. Environmental Protection Agency definition of a qualified owner/operator; and
- j. will have the same power and authority with respect to debt, bond and other financing as set forth

in the Interlocal Agreement; and

WHEREAS, the City and the Districts have the authority to sell and transfer the Systems to Citizens under Indiana law, including without limitation pursuant to the following:

- a. each of the City, the Districts, and Citizens is governed by Indiana Code 36-1-11 because each is a political subdivision;
- b. each of the City, the Districts, and Citizens is a governmental entity under Indiana Code 36-1-11-8;
- c. each of the City, the Districts, and Citizens is a governmental body under Indiana Code 5-22-22;
- d. Indiana Code 5-22-22-10 provides each of the City, the Districts, and Citizens with the authority to transfer or exchange property and establishes a process for doing so;
- e. the other provisions of Indiana Code 5-22-22 for disposal do not apply because Indiana Code 5-22-22-10 provides an independent process from those other requirements;
- f. Indiana Code 36-1-11-8 provides each of the City, the Districts, and Citizens with the authority to transfer or exchange property and establishes a process for doing so;
- g. the other provisions of Indiana Code 36-1-11 for disposal do not apply because Indiana Code 36-1-11-8 provides an independent process from those other requirements;
- h. Indiana Code 36-1-7 specifically provides the authority to transfer the Systems, without compliance with any other statute; and

WHEREAS, Citizens' acquisition of each of the Systems will be as a going concern and as part of an integrated transaction involving both Systems, with each part dependent on the other; and

WHEREAS, Citizens' acquisition of the Systems presents a unique opportunity the benefits of which are not otherwise available to the residents of the City, unless the acquisition is made by Citizens; and

WHEREAS, based on the due diligence completed through the effective date of this ordinance, the due diligence demonstrates:

- a. The Systems are synergistic with existing operations and position Citizens as a provider of a broader range of services;
- b. similarities between current operations of Citizens and the Systems provide opportunities to reduce operating costs; and
- c. acquisition by Citizens preserves local ownership of the Systems; and

WHEREAS, IC 36-8-2-4 permits the City to regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare; and

WHEREAS, IC 36-8-2-7 permits the City to regulate any business use of a watercourse; and

WHEREAS, IC 36-8-2-8 permits the City to regulate the introduction of any substance or odor into the air, or any generation of sound; and

WHEREAS, IC 36-9-2-8 permits the City to establish, vacate, maintain, and control watercourses; and

WHEREAS, IC 36-9-2-10 permits the City to regulate the taking of water, or causing or permitting water to escape, from a watercourse; and

WHEREAS, IC 36-9-2-11 permits the City to regulate conduct that might alter the temperature of water, or affect the flow of water, in a watercourse; and

WHEREAS, IC 36-9-2-12 permits the City to regulate the introduction of any substance into a watercourse or onto its banks; and

WHEREAS, IC 36-9-2-16 permits the City to regulate the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage; and

WHEREAS, IC 36-1-3 authorizes the City to exercise Home Rule powers; and

WHEREAS, the City-County Council desires to provide a preliminary approval of the sale of the Systems to Citizens and related actions subject to the adoption of an ordinance confirming that the Definitive Agreements are consistent with the terms of the MOU and approving the execution of the Definitive Agreements (the "Approving Ordinance"); now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA;

SECTION 1. Pursuant to IC 36-3-4-18(a)(6), there is hereby created a committee of the City-County Council to be called the "Utility Transfer Oversight Committee" which shall have as its purpose to review the Definitive Agreements and to consider the Approving Ordinance. The President of the City-County Council shall appoint six (6) councillors to the committee and the Minority Leader shall appoint five (5) councillors to the committee.

SECTION 2. The City-County Council hereby approves the MOU. Upon the adoption of the Approving Ordinance, the sale and transfer of the Systems to Citizens are hereby approved, subject to the satisfaction of the terms and conditions set forth in this ordinance, the Interlocal Agreements, and the MOU and subject to all required governmental approvals. This ordinance is deemed to be a resolution for purposes of IC 5-22-22-10 and IC 36-1-11-8.

SECTION 3. The City-County Council hereby approves the substantially final form of the Interlocal Agreements attached hereto. Upon the adoption of the Approving Ordinance, the Mayor and all other appropriate officers and employees of the City and the Districts are hereby authorized to execute and deliver the Interlocal Agreements (with such changes as the officers executing the Interlocal Agreements deem appropriate and the approval of the Corporation Counsel as to form and legality) and to take all actions and execute all documents necessary and appropriate to vest in Citizens or the Authority the requisite power and authority to consummate the transactions proposed herein.

SECTION 4. Upon the adoption of the Approving Ordinance, the City-County Council hereby authorizes the Mayor and other appropriate officers and employees of the City and the Districts to take all actions and execute all documents necessary to provide for the sale of the Systems as provided herein.

SECTION 5. Upon the adoption of the Approving Ordinance, the transfer and sale of the Systems as set forth herein, the MOU, the Definitive Agreements and the Interlocal Agreements constitute an irrevocable action on the part of the City-County Council and such transfer and sale constitute an irrevocable pledge of such property for purposes set forth herein pursuant to Indiana Code 5-1-14.

SECTION 6. The adoption of this ordinance constitutes the specific manner for exercising Home Rule power in accordance with IC 36-1-3-6.

SECTION 7. The Corporation Counsel shall review the Revised Code and prepare any necessary proposals to amend the Revised Code to recognize the effect of the transfer of the Systems and, after the adoption of the Approving Ordinance, shall refer such proposals to the Clerk of the City-County Council for consideration. If any changes to the Revised Code are proper to include in the Approving Ordinance, the Corporation Counsel shall ensure that such changes are provided to the Clerk for inclusion therein.

SECTION 8. No part of any funds received on account of, or in payment for, the assets transferred pursuant to any Definitive Agreements entered into pursuant to the MOU approved by this Ordinance

shall be used by any agency, department, division of the City of Indianapolis or Marion County (including any municipal corporation whose budget is subject to adoption by this Council) or any of its Boards or commissions to provide any financial aid or assistance or subsidy to any professional sports team.

SECTION ~~9~~ 9. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance. The provisions of this ordinance are severable.

SECTION ~~9~~ 10. This ordinance shall be in full force and effect from and upon compliance with IC 36-3-4-14, and all ordinances in conflict herewith are hereby repealed to the extent of such conflict.

The foregoing was passed by the City-County Council this ____ day of _____, 2010, at ____ p.m.

ATTEST:

Ryan Vaughn
President, City-County Council

Melissa Thompson
Clerk, City-County Council

Presented by me to the Mayor this ____ day of _____, 2010, at 10:00 a.m.

Melissa Thompson
Clerk, City-County Council

Approved and signed by me this ____ day of _____, 2010.

Gregory A. Ballard, Mayor

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

EXHIBIT B
INTERLOCAL AGREEMENTS

**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WATER)**

Dated as of _____, 2010

Entered into by and among the City of Indianapolis, the Waterworks District of the City of Indianapolis, acting by and through the Board of Directors of the Department of Waterworks of the City of Indianapolis, and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities)

TABLE OF CONTENTS

ARTICLE I.	PURPOSE	12
ARTICLE II.	DEFINITIONS	12
ARTICLE III.	ADMINISTRATION	14
Section 3.1.	Establishment of Authority	14
Section 3.2.	Board of Directors	14
Section 3.3.	Governance, Staffing and Organization	14
Section 3.4.	Budget, Ratemaking and Method of Financing	14
Section 3.5.	Transfer of Assets and Assumption of Liabilities	14
Section 3.6.	Powers.	14
Section 3.7.	Treasurer	15
Section 3.8.	Duration	15
ARTICLE IV.	REPRESENTATIONS AND WARRANTIES	16
ARTICLE V.	AMENDMENT AND TERMINATION	17
Section 5.1.	Amendment	17
Section 5.2.	Termination.	17
Section 5.3.	Effect of Termination	17
ARTICLE VI.	REMEDIES, WAIVER AND IMMUNITY	17
Section 6.1.	Remedies.	17
Section 6.2.	Waiver	18
Section 6.3.	Immunity of Officers, Directors, Members, Employees and Agents	18
ARTICLE VII.	MISCELLANEOUS	18
Section 7.1.	Governing Law	18
Section 7.2.	Counterparts	18
Section 7.3.	Severability	18
Section 7.4.	Agreement; Transfer of Powers	18
Section 7.5.	Reasonable Efforts; Cooperation	18
Section 7.6.	No Assignment	19
Section 7.7.	Limitation of Rights	19
Section 7.8.	Notice	19
Section 7.9.	Performance Due on other than a Business Day	20
Section 7.10.	Waiver of Assent	20
Section 7.11.	Gender; Section Headings and Table of Contents.	20

Section 7.12. Entire Agreement	20
Section 7.13. Effective Date	20

INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WATER)

This INTERLOCAL COOPERATION AGREEMENT FOR THE PROVISION OF UTILITY SERVICES (WATER), dated as of _____, 2010, is being entered into by and among the City, the District and Citizens.

WITNESSETH

WHEREAS, the City is a consolidated city organized and operating pursuant to Indiana Code 36-3-1 and is an Indiana political subdivision;

WHEREAS, the District is an Indiana political subdivision established and operating under Indiana Code 8-1.5-4;

WHEREAS, Citizens is an executive department of the City established and operating pursuant to Indiana Code 8-1-11.1 and its Board serves as the board of the City's utility special taxing district and is an Indiana political subdivision;

WHEREAS, the Act authorizes the City, the District and Citizens, as political subdivisions, to exercise powers jointly pursuant to a written agreement authorized by ordinance or resolution of each of them and to administer such agreement through a separate legal entity established thereby;

WHEREAS, the City, acting through the District, (a) owns the assets that the Authority would acquire under the Purchase Agreement and (b) is permitted and has the power pursuant to the Indiana Code and its ordinances or resolutions to own and operate the System for the benefit of the City's residents;

WHEREAS, Citizens has the power pursuant to Indiana Code 8-1-11.1 to provide utility services within the City or outside the City within the limits authorized by law and to own all utility property related or belonging thereto;

WHEREAS, the City-County Council is authorized to create and terminate City departments, divisions, offices and other agencies and, except as otherwise provided by Indiana law, to transfer the powers, duties, functions and obligations to or from such entities;

WHEREAS, the purposes of this Agreement are: (a) to establish a separate legal entity organized as an Indiana nonprofit corporation for the purpose of exercising all of the respective rights, powers, functions and duties of the City, the District and Citizens that are necessary, useful or appropriate to furnishing water services that: (i) is qualified to own, operate and finance the System under various federal and state statutes and regulations; (ii) will be governed by the Authority Board, whose members will be the persons appointed as members of the Board, from time to time in the manner set forth in Indiana Code 8-1-11.1, by the Board of Trustees; (iii) will operate the System through the employees of Citizens and others; (iv) has all of the powers of Citizens, the District and the City that are necessary, useful or appropriate to the acquisition, ownership and operation of the System; (v) is a "qualified entity" under Indiana Code 5-1.4-1-10; (vi) is an "issuer" under Indiana Code 5-1-14-4(a); (vii) is a public body created pursuant to the Act and the Nonprofit Act; (viii) is an eligible borrower under applicable environmental laws and regulations; (ix) satisfies the State Revolving Fund/U.S. Environmental Protection Agency definition of a qualified owner/operator; (x) has jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act; and (xi) has the power and authority delegated to it under this Agreement; (b) to provide for the transfer of the System from the City and the District to the Authority to be operated and held, as specified in the Purchase Agreement, in perpetuity in public charitable trust in a manner separate from but similar to the Trust, (i) for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust, and the customers of the System and (ii) operated in coordination with the Trust and any utility property that may be owned and/or operated by Citizens or its affiliates (including the Authority); (c) to transfer and/or delegate to, and vest in, the Authority all powers of the City, the District and Citizens that

are necessary, useful or appropriate to the acquisition, ownership and operation of the System; and (d) to effectuate the exercise by the Authority of the powers delegated and/or transferred to it on behalf of the City, the District and Citizens for the benefit of the residents of the City and Marion County, Indiana and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System in a manner consistent with Article I;

WHEREAS, the City, the District and Citizens are negotiating the Purchase Agreement;

WHEREAS, in connection with the execution of the Purchase Agreement, the performance of the Authority's obligations thereunder and the provision of water services from and after the consummation of the transactions contemplated by the Purchase Agreement, the City, the District and Citizens, having determined that it is in the best interests of the City, the District, Citizens, the beneficiaries of the Trust and the customers of the System, desire to enter into this Agreement to set forth the terms of such joint agreement as required by the Act;

WHEREAS, the City-County Council for and on behalf of the City has adopted an ordinance authorizing the execution, delivery and performance of this Agreement and authorizing the transfer of the powers, duties, functions and obligations set forth herein from the District to the Authority;

WHEREAS, Citizens and the District have adopted resolutions authorizing the execution, delivery and performance of this Agreement;

WHEREAS, the City, the District and Citizens have adopted substantially identical resolutions authorizing the transfer and exchange of the System pursuant to Indiana Code 5-22-22-10 and Indiana Code 36-1-11-8;

WHEREAS, this Agreement shall be submitted for approval to all state bodies having the power to control the provision of services or facilities which would be provided hereunder pursuant to Indiana Code 36-1-7-5; and

WHEREAS, this Agreement involves only Indiana political subdivisions as Parties and has been approved by the fiscal body of each Party.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the City, the District and Citizens agree as follows:

PURPOSE

In addition to the purposes set forth above, this Agreement provides for (a) the provision of water services through the formation of the Authority as a separate legal entity organized as a nonprofit corporation, (b) the transfer to the Authority of the System as specified in the Purchase Agreement, (c) the delegation and/or transfer to, and vesting in, the Authority of all powers that are necessary, useful or appropriate (i) for the acquisition, ownership and operation of the System and (ii) to the Authority having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, and (d) the exercise by the Authority of the powers delegated and/or transferred to it herein on behalf of the City, the District and Citizens for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System in a manner that (w) ensures local control over critical Central Indiana utilities continues with the same invulnerability to takeover by distant companies and investors that has protected the utilities held in the Trust for over one hundred years, (x) ensures local reinvestment and community-based decision making, (y) is coordinated with the Trust and any other utility properties that may be owned and/or operated by Citizens or its affiliates (including the Authority) and (z) is irrevocable.

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below:

"Act" means Indiana Code 36-1-7, as amended from time to time.

"Agreement" means this Interlocal Cooperation Agreement for the Provision of Utility Services (Water), dated as of _____, 2010, by and among the City, the District and Citizens, as amended from time to time in accordance with its terms.

"Articles" means the Articles of Incorporation of the Authority in the form attached hereto as Exhibit A, as amended from time to time in accordance with their terms.

"Authority" means Citizens Waterworks Authority, Inc., an Indiana nonprofit corporation, established pursuant to the terms of this Agreement, which is an affiliate of Citizens.

"Authority Board" means the board of directors of the Authority.

"Board" means the board of directors of Citizens serving as the fiscal body of Citizens.

"Board of Trustees" means the Board of Trustees for Utilities of the Department of Public Utilities of the City.

"Bylaws" means the Bylaws of the Authority in the form attached hereto as Exhibit B, as amended from time to time in accordance with their terms.

"Citizens" means the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities).

"City" means the City of Indianapolis, Indiana.

"City-County Council" means the City-County Council of the City serving as the legislative and fiscal body of the City.

"Clean Water Act" means the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*

"District" means the Waterworks District of the City, acting by and through the Board of Directors of the Department of Waterworks of the City, which serves as its fiscal body.

"Effective Time" means the time at which all of the following shall have occurred: (i) the establishment of the Authority shall have become effective in accordance with Section 3.1 and (ii) all necessary approvals of state officers or state agencies having the power to control the provision of services by the System shall have taken effect.

"Nonprofit Act" means the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17, as amended from time to time.

"Party" means a party to this Agreement, and **"Parties"** means all of them.

"Purchase Agreement" means that certain Asset Purchase Agreement pursuant to which the Authority would, among other things, acquire the System from, and assume certain liabilities of, the District.

"Safe Drinking Water Act" means the Safe Drinking Water Act of 1974, as amended from time to time and codified at 42 U.S. Code 300f *et seq.*

"System" means the water system owned and operated by the District.

"Treasurer" means the treasurer of the Board.

"Trust" means the public charitable trust pursuant to which Citizens, among other things, provides local gas distribution and other utility services to the City and the residents of Marion County, Indiana.

ADMINISTRATION

Establishment of Authority. Pursuant to the Act, the City, the District and Citizens hereby establish the Authority as a separate legal entity, organized as an Indiana nonprofit corporation, named "Citizens Waterworks Authority, Inc." By reason of the powers vested in it by this Agreement, the Authority may exercise the powers of the City, the District and Citizens permitted by this Agreement and the Act. Except as otherwise provided and to the extent limited in this Agreement, the Authority shall have all of the powers of an Indiana nonprofit corporation and all of the powers that may be exercised by the City, the District and Citizens that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws, including, without limitation, the powers specified in Section 3.6. The establishment of the Authority shall become effective upon the filing by Citizens of the Articles with the Indiana Secretary of State and the adoption by the Authority Board of the Bylaws.

Board of Directors. The business and affairs of the Authority shall be managed by, and the powers of the Authority shall be exercised by, or under the authority of, the Authority Board. The Authority Board may, in its sole discretion, determine the extent to which it exercises those powers or administers the System through delegation to Citizens. Pursuant to the Bylaws, the members of the Authority Board shall automatically, without necessity of further action, be those individuals who are appointed by the Board of Trustees, from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board. The Authority Board shall have no authority to make appointments (either individually or jointly) to fill vacancies on the Authority Board.

Governance, Staffing and Organization. Unless otherwise required by applicable law, the Authority shall be governed in accordance with the Nonprofit Act, its Articles and its Bylaws, each as may be amended from time to time. The Authority Board shall have the authority, subject to any restrictions on that authority in any contracts of the Authority, to amend the Articles and Bylaws in a manner not inconsistent with this Agreement, to dissolve the Authority and distribute its assets in accordance with the Articles, to appoint and hire such officers, employees, consultants, agents and other persons and to organize the Authority's business and operations, in each case, as it may determine to be in the best interest of the Authority. Upon the request of the Authority and as needed, Citizens may provide staff and such other support as the Authority may require.

Budget, Ratemaking and Method of Financing. Pursuant to the Bylaws, the Authority Board shall have the authority and responsibility for establishing and maintaining the Authority's budget. Prior to the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be funded by Citizens. From and after the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be financed from any and all sources that are permitted under applicable law and the powers delegated and/or transferred to the Authority hereunder, including without limitation, rates and charges, user fees, service fees, permit fees, grant proceeds and bond proceeds. To the extent that the Authority shall determine necessary, useful or appropriate, Citizens may, subject to applicable law, use its powers, as a municipal legislative body pursuant to Indiana Code 8-1-11.1-3.1, to adopt rates and charges provided by the Authority, subject to the approval of the Indiana Utility Regulatory Commission, and to provide bond, revenue obligation or certificate of indebtedness financing for the benefit of the Authority.

Transfer of Assets and Assumption of Liabilities. Upon the consummation of the transactions contemplated by the Purchase Agreement, and pursuant to Indiana law, including, without limitation, Indiana Code 5-22-22-10, 36-1-7 and 36-1-11-8 after adoption of resolutions or ordinances by the Parties, the Authority shall acquire, and the City and the District shall transfer to the Authority, the assets that are specified therein comprising the System, and assume the liabilities specified therein, in accordance with the terms and conditions thereof.

Powers.

At the Effective Time, the City shall delegate and transfer to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

At the Effective Time, the District shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

At the Effective Time, Citizens shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

Treasurer. The City, the District and Citizens hereby delegate to the Treasurer the duty to, and the Treasurer shall, receive, disburse and account for all monies of the Authority. The City, the District and Citizens agree that the Treasurer may, in his or her discretion, and authorize the Treasurer to, delegate such power and authority to such officers, employees or other agents of the Authority as he or she may determine. The City, the District and Citizens agree that the Treasurer (a) shall exercise on behalf of the Authority, all powers that are necessary, useful or appropriate to the receipt, disbursement, accounting, holding and investment of such monies, including any securities that may come into the possession of the Authority, and (b) shall maintain the Authority's books of accounts and records separate and apart, and its funds segregated, from those of any other of the utilities operated by the Board.

Duration. The duration of this Agreement shall be perpetual as set forth in Section 5.2(b).

REPRESENTATIONS AND WARRANTIES

Each of the City, the District and Citizens hereby represents and warrants that:

except for obtaining all necessary approvals of state and federal governmental agencies, it has taken all necessary actions and has received all necessary approvals and consents (including the approval by its fiscal body) and adopted all necessary ordinances or resolutions in order to execute and deliver this Agreement, to perform its obligations hereunder to delegate and in the case of the City, transfer, pursuant to Indiana Code 36-3-4-23, to the Authority, and to vest in it, all powers of such Party that are necessary, appropriate or useful to acquire, own and operate the System and/or having jurisdiction over drinking water, drinking water treatment plants, distribution lines and storage facilities, and safe drinking water standards and compliance in accordance with the requirements of state and federal law, including without limitation, the Clean Water Act and Safe Drinking Water Act, including without limitation the powers described in Section 3.6;

the execution, delivery and performance of this Agreement by it are within its power and authority and do not violate the laws of the State of Indiana (or any other federal, state or local law) applicable to it or its organizational statute, instrument or documents or any other applicable federal, state or local ordinance, resolution, rule or regulation;

the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of it enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity), and it is to be understood that the rights of the Parties to this Agreement and the enforceability of the Agreement may be subject to the valid exercise of the constitutional powers of the Parties, the State and the United States of America;

the execution, delivery and performance of this Agreement do not conflict with or result in the breach or termination of, or otherwise give any other person the right to terminate, or constitute a default, event of default or an event, which, with notice or lapse of time, or both, would constitute a default or an event of default under the terms of any contract or permit to which it is a Party or by which it or its properties are bound;

it intends that upon consummation of the transaction contemplated by the Purchase Agreement, this Agreement be irrevocable;

it will take no action to impair its obligations under this Agreement or any bonds issued or other contractual obligations entered into by Citizens or the Authority with regard to ownership, operation or management of the System; and

it intends that the System, including the assets acquired pursuant to the Purchase Agreement and the assets transferred hereunder, be protected against further sale or disposition by being operated and held in public charitable trust in a manner separate from but similar to the utility systems currently operated by Citizens, for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System, and that such assets will be operated in accordance with this Agreement, the Articles, the Bylaws, the Purchase Agreement, and Indiana Code 8-1-11.1, but not the Indiana Trust Code (Indiana Code 30-4).

AMENDMENT AND TERMINATION

Amendment. Unless explicitly set forth otherwise in this Agreement, this Agreement may only be changed, amended, modified, appended to or supplemented prior to the Effective Time and then only by a writing consented to as a change, amendment, modification, appendix or supplement to this Agreement by all of the City, the District and Citizens. After the Effective Time, this Agreement shall not be, or deemed to be, changed, amended, modified, appended to or supplemented, for any reason or in any manner by agreement, conduct of the parties, or operation of law or otherwise, it being the intent of the Parties that the formation of the Authority, the delegation and transfer of powers to, and the vesting of such powers in, the Authority pursuant hereto, and the acquisition and transfer of assets pursuant to the Purchase Agreement and this Agreement be permanent and irrevocable.

Termination.

This Agreement may be terminated by either the City, the District or Citizens upon written notice to the other Parties at any time prior to the consummation of the transactions contemplated by the Purchase Agreement:

if the City, the District and the Authority have not executed the Purchase Agreement prior to _____, 2010; or

if the Purchase Agreement is terminated in accordance with its terms.

This Agreement may not be terminated from and after the consummation of the transactions contemplated by the Purchase Agreement and shall continue in perpetuity thereafter.

Effect of Termination. Upon the termination of this Agreement or any dissolution or winding up of the Authority, the property of the Authority shall be distributed in accordance with its Articles.

REMEDIES, WAIVER AND IMMUNITY

Remedies.

In the event of any breach, threatened breach, non-performance or other violation of any obligation of this Agreement by any Party, the sole and exclusive remedy of any other Party under this Agreement shall be the remedy of injunctive relief for specific performance. Under no circumstances shall any Party have a right to any other remedy, including but not limited to rescission, cancellation, or reformation of this Agreement for any reason, or monetary damages of any kind.

Any action, suit or other proceeding related in any way to this Agreement, including but not limited to an action, suit or proceeding that alleges a breach, threatened breach, non-performance or any other violation by a Party of any obligation under this Agreement shall be instituted, prosecuted and maintained exclusively in a court of competent jurisdiction located in Marion County, Indiana. Any right that may exist to a change of venue from Marion County, Indiana to another court outside Marion County, Indiana is hereby WAIVED and shall not be asserted in any litigation.

No action, suit or other proceeding for any breach, threatened breach, non-performance or any other violation by a Party under this Agreement shall be instituted, prosecuted or maintained by another Party, unless, prior to instituting such action, suit or other proceeding: (i) the Party seeking to institute such action, suit or other proceeding has given such other Party notice of such breach, threatened breach, non-performance or any other violation and demand for performance; and (ii) the Party upon which notice was served has failed to cure such breach or violation within thirty (30) days after such notice.

Notwithstanding anything to the contrary herein, this Agreement shall not preclude or otherwise affect the exercise of by a Party of any right, remedy, duty or obligation it may have under the

Purchase Agreement, which rights, remedies, duties and obligations shall be governed by the Purchase Agreement.

Waiver. A failure by a Party to institute any suit, action or other proceeding for any breach or violation by another Party of any obligation under this Agreement shall not constitute a waiver by such Party of such breach or violation.

Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future official, officer, director, member, employee or agent of the Parties, as such, under any rule of law or equity, statute or constitution.

MISCELLANEOUS

Governing Law. This Agreement is executed by the Parties and delivered in the State of Indiana, and the rights of the Parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Indiana, without reference to principles of conflicts of law.

Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

Severability. The sections, sentences and provisions of this Agreement are severable, and if any one or more of such sections, sentences or provisions (the "Conflicting Provisions") are in conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 5.1 to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the delivery or removal of the Conflicting Provisions.

Agreement; Transfer of Powers. This Agreement is intended to be an interlocal agreement or contract pursuant to the Act, in which the Parties have undertaken to provide that which is required by the Act and is intended to vest in the Authority those powers of the City specified in Section 3.6 that may be transferred to, and vested in it, pursuant to Indiana law. If and to the extent this Agreement is not such an interlocal agreement or contract or does not effectively vest or transfer such powers, this Agreement shall be deemed to include such terms not otherwise included herein and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this Agreement to be deemed a valid interlocal agreement or contract under State law and to transfer and vest such powers pursuant to Indiana law.

Reasonable Efforts; Cooperation. Subject to the terms and conditions of this Agreement, each Party will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. In addition, the Parties each agree to cooperate and take such actions, including any necessary amendments hereto, as may be required in the judgment of the Authority for the Authority to obtain all necessary qualifications and approvals, including any that may be required by any state and federal governmental agencies, and to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement, and from time to time, upon the request of another Party to this Agreement and without further consideration, to execute, acknowledge and deliver in proper form any further instruments, and take such other action as the other Parties may reasonably require, in order to effectively carry out the intent of this Agreement, including without limitation, the delegation of any further powers that may be necessary, useful or appropriate to permit the Authority to carry out its purposes.

No Assignment. No Party may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other person, without the consent of all other Parties, and any purported sale, assignment, pledge or other transfer without such consent shall be null and void.

Limitation of Rights. Nothing expressed or implied in this Agreement is intended to give, or shall give, to any other person, other than the Parties and the Authority, any legal or equitable right, remedy or claim under or with respect to this Agreement or any rights or obligations hereunder. This Agreement and the rights and obligations hereunder are intended to be, and shall be, for the sole and exclusive benefit of the Parties and the Authority.

Notice. Unless oral notice is otherwise allowed in this Agreement, all notices required to be sent under this Agreement:

shall be in writing;

shall be deemed to be sufficient if given by (i) depositing the same in United States mail, postage prepaid, or (ii) electronically transmitting such notice by any means such as by facsimile transmission or electronic mail or (iii) by depositing the same with a courier delivery service for delivery on the following business day, addressed:

If to the City, to:

City of Indianapolis
Office of the Mayor
2501 City-County Building
200 East Washington Street
Indianapolis, Indiana 46204
Fax: _____
Attention: Mayor

If to the District, to:

Department of Waterworks of the City of Indianapolis
[Address]
Indianapolis, Indiana **[46_____]**
Fax: _____
Attention: Director

Indianapolis Waterworks District
[Address]
Indianapolis, Indiana **[46_____]**
Fax: _____
Attention: Director

If to Citizens, to:

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Fax: (317) 927-4395
Attention: President and Chief Executive Officer

shall be deemed to have been given on the day of such mailing, transmission or deposit; and

any of the methods specified in Section 7.8(b) hereof shall be sufficient to deliver any notice required hereunder; notwithstanding that one or more of such methods may not be specifically listed in the Sections hereunder requiring such notice.

Performance Due on other than a Business Day. If the last day for taking any action under this Agreement is a day other than a business day, such action may be taken on the next succeeding business day and, if so taken, shall have the same effect as if taken on the day required by this Agreement.

Waiver of Assent. Notice of acceptance of or other assent to this Agreement is hereby waived.

Gender; Section Headings and Table of Contents.

Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa. Unless otherwise indicated, the words "hereof," "herein," "hereby" and "hereunder" or words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, clause or other portion of this Agreement.

Any headings preceding the texts of the several articles and sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

Entire Agreement. This Agreement and the Purchase Agreement shall constitute the entire agreement of the Parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto.

**Effective Date. This Agreement shall become effective at the Effective Time.
[Signatures on Following Page]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: _____

Printed: _____

Its: _____

DISTRICT

By: _____

Printed: _____

Its: _____

CITIZENS

By: _____

Printed: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Samantha Karn, Corporation Counsel, City of Indianapolis

Date: _____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the City, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Water) for and on behalf of the City.

WITNESS my hand and notarial seal.

(Seal)	_____ (Written Signature)
	_____ (Printed Signature) Notary Public
My Commission Expires:	My County of Residence:
_____	_____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the District, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Water) for and on behalf of the District.

WITNESS my hand and notarial seal.

(Seal)	_____ (Written Signature)
	_____ (Printed Signature) Notary Public
My Commission Expires:	My County of Residence:
_____	_____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the Citizens, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Water) for and on behalf of Citizens.

WITNESS my hand and notarial seal.

(Seal)

(Written Signature)

(Printed Signature) Notary Public

My Commission Expires:

My County of Residence:

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Signed:_____

This instrument was prepared by Anthony P. Aaron, Esquire, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

EXHIBIT A

[Articles to be attached]

EXHIBIT B

[Bylaws to be attached]

**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)**

Dated as of _____, 2010

Entered into by and among the City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities)

TABLE OF CONTENTS

ARTICLE I.	PURPOSE	29
ARTICLE II.	DEFINITIONS	29
ARTICLE III.	ADMINISTRATION	31
Section 3.1.	Establishment of Authority	31
Section 3.2.	Board of Directors	31
Section 3.3.	Governance, Staffing and Organization	31
Section 3.4.	Budget, Ratemaking and Method of Financing	31
Section 3.5.	Transfer of Assets and Assumption of Liabilities	31
Section 3.6.	Powers.	32
Section 3.7.	Treasurer	32
Section 3.8.	Duration	32
ARTICLE IV.	REPRESENTATIONS AND WARRANTIES	32
ARTICLE V.	AMENDMENT AND TERMINATION	33
Section 5.1.	Amendment	33
Section 5.2.	Termination.	33
Section 5.3.	Effect of Termination	34
ARTICLE VI.	REMEDIES, WAIVER AND IMMUNITY	34
Section 6.1.	Remedies.	34
Section 6.2.	Waiver	34
Section 6.3.	Immunity of Officers, Directors, Members, Employees and Agents	34
ARTICLE VII.	MISCELLANEOUS	34
Section 7.1.	Governing Law	34
Section 7.2.	Counterparts	34
Section 7.3.	Severability	34
Section 7.4.	Agreement; Transfer of Powers	35
Section 7.5.	Reasonable Efforts; Cooperation	35
Section 7.6.	No Assignment	35
Section 7.7.	Limitation of Rights	35
Section 7.8.	Notice	35
Section 7.9.	Performance Due on other than a Business Day	36
Section 7.10.	Waiver of Assent	36

Section 7.11. Gender; Section Headings and Table of Contents.	36
Section 7.12. Entire Agreement	36
Section 7.13. Effective Date	36

INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)

This INTERLOCAL COOPERATION AGREEMENT FOR THE PROVISION OF UTILITY SERVICES (WASTEWATER), dated as of _____, 2010, is being entered into by and among the City, the District and Citizens.

WITNESSETH

WHEREAS, the City is a consolidated city organized and operating pursuant to Indiana Code 36-3-1 and is an Indiana political subdivision;

WHEREAS, the District is an Indiana political subdivision established and operating under Indiana Code 36-9-25;

WHEREAS, Citizens is an executive department of the City established and operating pursuant to Indiana Code 8-1-11.1 and its Board serves as the board of the City's utility special taxing district and is an Indiana political subdivision;

WHEREAS, the Act authorizes the City, the District and Citizens, as political subdivisions, to exercise powers jointly pursuant to a written agreement authorized by ordinance or resolution of each of them and to administer such agreement through a separate legal entity established thereby;

WHEREAS, the City, acting through the District, (a) owns the assets that the Authority would acquire under the Purchase Agreement and (b) is permitted and has the power pursuant to the Indiana Code and its ordinances or resolutions to own and operate the System for the benefit of the City's residents;

WHEREAS, Citizens has the power pursuant to Indiana Code 8-1-11.1 to provide utility services within the City or outside the City within the limits authorized by law and to own all utility property related or belonging thereto;

WHEREAS, the City-County Council is authorized to create and terminate City departments, divisions, offices and other agencies and, except as otherwise provided by Indiana law, to transfer the powers, duties, functions and obligations to or from such entities;

WHEREAS, the purposes of this Agreement are: (a) to establish a separate legal entity organized as an Indiana nonprofit corporation for the purpose of exercising all of the respective rights, powers, functions and duties of the City, the District and Citizens that are necessary, useful or appropriate to furnishing wastewater collection and treatment services that: (i) is qualified to own, operate and finance the System under various federal and state statutes and regulations; (ii) will be governed by the Authority Board, whose members will be the persons appointed as members of the Board, from time to time in the manner set forth in Indiana Code 8-1-11.1, by the Board of Trustees; (iii) will operate the System through the employees of Citizens and others; (iv) has all of the powers of Citizens, the District and the City that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, including without limitation, the powers required for an Approved POTW Pretreatment Program; (v) is a "qualified entity" under Indiana Code 5-1.4-1-10; (vi) is an "issuer" under Indiana Code 5-1-14-4(a); (vii) is a public body created pursuant to the Act and the Nonprofit Act; (viii) is an eligible borrower under applicable environmental laws and regulations; (ix) satisfies the State Revolving Fund/U.S. Environmental Protection Agency definition of a qualified owner/operator; (x) has jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifies as a publicly owned pretreatment works within the meaning of the Clean Water Act and (xi) has the power and authority delegated to it under this Agreement; (b) to provide for the transfer of the System from the City and the District to the Authority to be operated and held, as specified in the Purchase Agreement, in perpetuity in public charitable trust in a manner separate from but similar to the Trust, (i) for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System and (ii) operated in coordination with the Trust and any utility property that may be owned and/or operated by Citizens or its affiliates (including the Authority); (c) to transfer and/or delegate to, and vest in, the Authority all powers of the City, the District and Citizens that are necessary, useful or

appropriate to the acquisition, ownership and operation of the System; and (d) to effectuate the exercise by the Authority of the powers delegated and/or transferred to it on behalf of the City, the District and Citizens for the benefit of the residents of the City and Marion County, Indiana and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System in a manner consistent with Article I;

WHEREAS, the City, the District and Citizens are negotiating the Purchase Agreement;

WHEREAS, in connection with the execution of the Purchase Agreement, the performance of the Authority's obligations thereunder and the provision of wastewater collection and treatment services from and after the consummation of the transactions contemplated by the Purchase Agreement, the City, the District and Citizens, having determined that it is in the best interests of the City, the District, Citizens, the beneficiaries of the Trust and the customers of the System, desire to enter into this Agreement to set forth the terms of such joint agreement as required by the Act;

WHEREAS, the City-County Council for and on behalf of the City has adopted an ordinance authorizing the execution, delivery and performance of this Agreement and authorizing the transfer of the powers, duties, functions and obligations set forth herein from the District to the Authority;

WHEREAS, Citizens and the District have adopted resolutions authorizing the execution, delivery and performance of this Agreement;

WHEREAS, the City, the District and Citizens have adopted substantially identical resolutions authorizing the transfer and exchange of the System pursuant to Indiana Code 5-22-22-10 and Indiana Code 36-1-11-8;

WHEREAS, this Agreement shall be submitted for approval to all state bodies having the power to control the provision of services or facilities which would be provided hereunder pursuant to Indiana Code 36-1-7-5; and

WHEREAS, this Agreement involves only Indiana political subdivisions as Parties and has been approved by the fiscal body of each Party.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the City, the District and Citizens agree as follows:

PURPOSE

In addition to the purposes set forth above, this Agreement provides for (a) the provision of wastewater collection and treatment services through the formation of the Authority as a separate legal entity organized as a nonprofit corporation, (b) the transfer to the Authority of the System as specified in the Purchase Agreement, (c) the delegation and/or transfer to, and vesting in, the Authority of all powers that are necessary, useful or appropriate (i) for the acquisition, ownership and operation of the System and/or (ii) for the Authority to have jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, and (d) the exercise by the Authority of the powers delegated and/or transferred to it herein on behalf of the City, the District and Citizens for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System in a manner that (w) ensures local control over critical Central Indiana utilities continues with the same invulnerability to takeover by distant companies and investors that has protected the utilities held in the Trust for over one hundred years, (x) ensures local reinvestment and community-based decision making, (y) is coordinated with the Trust and any other utility properties that may be owned and/or operated by Citizens or its affiliates (including the Authority) and (z) is irrevocable.

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below:

"Act" means Indiana Code 36-1-7, as amended from time to time.

"Agreement" means this Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater), dated as of _____, 2010, by and among the City, the District and Citizens, as amended from time to time in accordance with its terms.

"Approved POTW Pretreatment Program" means a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11.

"Articles" means the Articles of Incorporation of the Authority in the form attached hereto as Exhibit A, as amended from time to time in accordance with their terms.

"Authority" means Citizens Waterworks Authority, Inc., an Indiana nonprofit corporation, established pursuant to the terms of this Agreement, which is an affiliate of Citizens.

"Authority Board" means the board of directors of the Authority.

"Board" means the board of directors of Citizens serving as the fiscal body of Citizens.

"Board of Trustees" means the Board of Trustees for Utilities of the Department of Public Utilities of the City.

"Bylaws" means the Bylaws of the Authority in the form attached hereto as Exhibit B, as amended from time to time in accordance with their terms.

"Citizens" means the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities).

"City" means the City of Indianapolis, Indiana.

"City-County Council" means the City-County Council of the City serving as the legislative and fiscal body of the City.

"Clean Water Act" means the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*

"District" means the Sanitary District of the City, acting by and through the Board of Public Works, which serves as its fiscal body.

"Effective Time" means the time at which all of the following shall have occurred: (i) the establishment of the Authority shall have become effective in accordance with Section 3.1 and (ii) all necessary approvals of state officers or state agencies having the power to control the provision of services by the System shall have taken effect.

"Nonprofit Act" means the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17, as amended from time to time.

"Party" means a party to this Agreement, and **"Parties"** means all of them.

"Purchase Agreement" means that certain Asset Purchase Agreement pursuant to which the Authority would, among other things, acquire the System from, and assume certain liabilities of, the District.

"System" means the wastewater collection and treatment system owned and operated by the District, including without limitation, the Belmont and Southport wastewater treatment plants.

"Treasurer" means the treasurer of the Board.

"Trust" means the public charitable trust pursuant to which Citizens, among other things, provides local gas distribution and other utility services to the City and the residents of Marion County, Indiana.

ADMINISTRATION

Establishment of Authority. Pursuant to the Act, the City, the District and Citizens hereby establish the Authority as a separate legal entity, organized as an Indiana nonprofit corporation, named "Citizens Waterworks Authority, Inc." By reason of the powers vested in it by this Agreement, the Authority may exercise the powers of the City, the District and Citizens permitted by this Agreement and the Act. Except as otherwise provided and to the extent limited in this Agreement, the Authority shall have all of the powers of an Indiana nonprofit corporation and all of the powers that may be exercised by the City, the District and Citizens that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws, including, without limitation, the powers specified in Section 3.6. The establishment of the Authority shall become effective upon the filing by Citizens of the Articles with the Indiana Secretary of State and the adoption by the Authority Board of the Bylaws.

Board of Directors. The business and affairs of the Authority shall be managed by, and the powers of the Authority shall be exercised by, or under the authority of, the Authority Board. The Authority Board may, in its sole discretion, determine the extent to which it exercises those powers or administers the System through delegation to Citizens. Pursuant to the Bylaws, the members of the Authority Board shall automatically, without necessity of further action, be those individuals who are appointed by the Board of Trustees, from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board. The Authority Board shall have no authority to make appointments (either individually or jointly) to fill vacancies on the Authority Board.

Governance, Staffing and Organization. Unless otherwise required by applicable law, the Authority shall be governed in accordance with the Nonprofit Act, its Articles and its Bylaws, each as may be amended from time to time. The Authority Board shall have the authority, subject to any restrictions on that authority in any contracts of the Authority, to amend the Articles and Bylaws in a manner not inconsistent with this Agreement, to dissolve the Authority and distribute its assets in accordance with the Articles, to appoint and hire such officers, employees, consultants, agents and other persons and to organize the Authority's business and operations, in each case, as it may determine to be in the best interest of the Authority. Upon the request of the Authority and as needed, Citizens may provide staff and such other support as the Authority may require.

Budget, Ratemaking and Method of Financing. Pursuant to the Bylaws, the Authority Board shall have the authority and responsibility for establishing and maintaining the Authority's budget. Prior to the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be funded by Citizens. From and after the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be financed from any and all sources that are permitted under applicable law and the powers delegated and/or transferred to the Authority hereunder, including without limitation, rates and charges, user fees, service fees, permit fees, grant proceeds and bond proceeds. To the extent that the Authority shall determine necessary, useful or appropriate, Citizens may, subject to applicable law, use its powers, as a municipal legislative body pursuant to Indiana Code 8-1-11.1-3.1, to adopt rates and charges provided by the Authority, subject to the approval of the Indiana Utility Regulatory Commission, and to provide bond, revenue obligation or certificate of indebtedness financing for the benefit of the Authority.

Transfer of Assets and Assumption of Liabilities. Upon the consummation of the transactions contemplated by the Purchase Agreement, and pursuant to Indiana law, including, without

limitation, Indiana Code 5-22-22-10, 36-1-7 and 36-1-11-8 after adoption of resolutions or ordinances by the Parties, the Authority shall acquire, and the City and the District shall transfer to the Authority, the assets that are specified therein comprising the System, and assume the liabilities specified therein, in accordance with the terms and conditions thereof.

Powers.

At the Effective Time, the City shall delegate and transfer to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

At the Effective Time, the District shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

At the Effective Time, Citizens shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

Treasurer. The City, the District and Citizens hereby delegate to the Treasurer the duty to, and the Treasurer shall, receive, disburse and account for all monies of the Authority. The City, the District and Citizens agree that the Treasurer may, in his or her discretion, and authorize the Treasurer to, delegate such power and authority to such officers, employees or other agents of the Authority as he or she may determine. The City, the District and Citizens agree that the Treasurer (a) shall exercise on behalf of the Authority, all powers that are necessary, useful or appropriate to the receipt, disbursement, accounting, holding and investment of such monies, including any securities that may come into the possession of the Authority, and (b) shall maintain the Authority's books of accounts and records separate and apart, and its funds segregated, from those of any other of the utilities operated by the Board.

Duration. The duration of this Agreement shall be perpetual as set forth in Section 5.2(b).

REPRESENTATIONS AND WARRANTIES

Each of the City, the District and Citizens hereby represents and warrants that:

except for obtaining all necessary approvals of state and federal governmental agencies, it has taken all necessary actions and has received all necessary approvals and consents (including the approval by its fiscal body) and adopted all necessary ordinances or resolutions in order to execute and deliver this Agreement, to perform its obligations hereunder to delegate and in the case of the City, transfer, pursuant to Indiana Code 36-3-4-23, to the Authority, and to vest in it, all powers of such Party that are necessary, appropriate or useful to acquire, own and operate the System, and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, including without limitation the powers described in Section 3.6;

the execution, delivery and performance of this Agreement by it are within its power and authority and do not violate the laws of the State of Indiana (or any other federal, state or local law) applicable to it or its organizational statute, instrument or documents or any other applicable federal, state or local ordinance, resolution, rule or regulation;

the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of it enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity), and it is to be understood that the rights of the Parties to this Agreement and the enforceability of the Agreement may be subject to the valid exercise of the constitutional powers of the Parties, the State and the United States of America;

the execution, delivery and performance of this Agreement do not conflict with or result in the breach or termination of, or otherwise give any other person the right to terminate, or constitute a default, event of default or an event, which, with notice or lapse of time, or both, would constitute a default or an event of default under the terms of any contract or permit to which it is a Party or by which it or its properties are bound;

it intends that upon consummation of the transaction contemplated by the Purchase Agreement, this Agreement be irrevocable;

it will take no action to impair its obligations under this Agreement or any bonds issued or other contractual obligations entered into by Citizens or the Authority with regard to ownership, operation or management of the System; and

it intends that the System, including the assets acquired pursuant to the Purchase Agreement and the assets transferred hereunder, be protected against further sale or disposition by being operated and held in public charitable trust, in a manner separate from but similar to the utility systems currently operated by Citizens, for the benefit of the residents of the City and Marion County, Indiana, and, in furtherance of interlocal cooperation, nearby counties, the beneficiaries of the Trust and the customers of the System, and that such assets will be operated in accordance with this Agreement, the Articles, the Bylaws, the Purchase Agreement, and Indiana Code 8-1-11.1, but not the Indiana Trust Code (Indiana Code 30-4).

AMENDMENT AND TERMINATION

Amendment. Unless explicitly set forth otherwise in this Agreement, this Agreement may only be changed, amended, modified, appended to or supplemented prior to the Effective Time and then only by a writing consented to as a change, amendment, modification, appendix or supplement to this Agreement by all of the City, the District and Citizens. After the Effective Time, this Agreement shall not be, or deemed to be, changed, amended, modified, appended to or supplemented, for any reason or in any manner by agreement, conduct of the parties, or operation of law or otherwise, it being the intent of the Parties that the formation of the Authority, the delegation and transfer of powers to, and the vesting of such powers in, the Authority pursuant hereto, and the acquisition and transfer of assets pursuant to the Purchase Agreement and this Agreement be permanent and irrevocable.

Termination.

This Agreement may be terminated by either the City, the District or Citizens upon written notice to the other Parties at any time prior to the consummation of the transactions contemplated by the Purchase Agreement:

if the City, the District and the Authority have not executed the Purchase Agreement prior to _____, 2010; or

if the Purchase Agreement is terminated in accordance with its terms.

This Agreement may not be terminated from and after the consummation of the transactions contemplated by the Purchase Agreement and shall continue in perpetuity thereafter.

Effect of Termination. Upon the termination of this Agreement or any dissolution or winding up of the Authority, the property of the Authority shall be distributed in accordance with its Articles.

REMEDIES, WAIVER AND IMMUNITY

Remedies.

In the event of any breach, threatened breach, non-performance or other violation of any obligation of this Agreement by any Party, the sole and exclusive remedy of any other Party under this Agreement shall be the remedy of injunctive relief for specific performance. Under no circumstances shall any Party have a right to any other remedy, including but not limited to rescission, cancellation, or reformation of this Agreement for any reason, or monetary damages of any kind.

Any action, suit or other proceeding related in any way to this Agreement, including but not limited to an action, suit or proceeding that alleges a breach, threatened breach, non-performance or any other violation by a Party of any obligation under this Agreement shall be instituted, prosecuted and maintained exclusively in a court of competent jurisdiction located in Marion County, Indiana. Any right that may exist to a change of venue from Marion County, Indiana to another court outside Marion County, Indiana is hereby WAIVED and shall not be asserted in any litigation.

No action, suit or other proceeding for any breach, threatened breach, non-performance or any other violation by a Party under this Agreement shall be instituted, prosecuted or maintained by another Party, unless, prior to instituting such action, suit or other proceeding: (i) the Party seeking to institute such action, suit or other proceeding has given such other Party notice of such breach, threatened breach, non-performance or any other violation and demand for performance; and (ii) the Party upon which notice was served has failed to cure such breach or violation within thirty (30) days after such notice.

Notwithstanding anything to the contrary herein, this Agreement shall not preclude or otherwise affect the exercise of by a Party of any right, remedy, duty or obligation it may have under the Purchase Agreement, which rights, remedies, duties and obligations shall be governed by the Purchase Agreement.

Waiver. A failure by a Party to institute any suit, action or other proceeding for any breach or violation by another Party of any obligation under this Agreement shall not constitute a waiver by such Party of such breach or violation.

Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future official, officer, director, member, employee or agent of the Parties, as such, under any rule of law or equity, statute or constitution.

MISCELLANEOUS

Governing Law. This Agreement is executed by the Parties and delivered in the State of Indiana, and the rights of the Parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Indiana, without reference to principles of conflicts of law.

Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

Severability. The sections, sentences and provisions of this Agreement are severable, and if any one or more of such sections, sentences or provisions (the "Conflicting Provisions") are in

conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 5.1 to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the delivery or removal of the Conflicting Provisions.

Agreement: Transfer of Powers. This Agreement is intended to be an interlocal agreement or contract pursuant to the Act, in which the Parties have undertaken to provide that which is required by the Act and is intended to vest in the Authority those powers of the City specified in Section 3.6 that may be transferred to, and vested in it, pursuant to Indiana law. If and to the extent this Agreement is not such an interlocal agreement or contract or does not effectively vest or transfer such powers, this Agreement shall be deemed to include such terms not otherwise included herein and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this Agreement to be deemed a valid interlocal agreement or contract under State law and to transfer and vest such powers pursuant to Indiana law.

Reasonable Efforts; Cooperation. Subject to the terms and conditions of this Agreement, each Party will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. In addition, the Parties each agree to cooperate and take such actions, including any necessary amendments hereto, as may be required in the judgment of the Authority for the Authority to obtain all necessary qualifications and approvals, including any that may be required by any state and federal governmental agencies, and to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement, and from time to time, upon the request of another Party to this Agreement and without further consideration, to execute, acknowledge and deliver in proper form any further instruments, and take such other action as the other Parties may reasonably require, in order to effectively carry out the intent of this Agreement, including without limitation, the delegation of any further powers that may be necessary, useful or appropriate to permit the Authority to carry out its purposes.

No Assignment. No Party may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other person, without the consent of all other Parties, and any purported sale, assignment, pledge or other transfer without such consent shall be null and void.

Limitation of Rights. Nothing expressed or implied in this Agreement is intended to give, or shall give, to any other person, other than the Parties and the Authority, any legal or equitable right, remedy or claim under or with respect to this Agreement or any rights or obligations hereunder. This Agreement and the rights and obligations hereunder are intended to be, and shall be, for the sole and exclusive benefit of the Parties and the Authority.

Notice. Unless oral notice is otherwise allowed in this Agreement, all notices required to be sent under this Agreement:

shall be in writing;

shall be deemed to be sufficient if given by (i) depositing the same in United States mail, postage prepaid, or (ii) electronically transmitting such notice by any means such as by facsimile transmission or electronic mail or (iii) by depositing the same with a courier delivery service for delivery on the following business day, addressed:

If to the City, to:

City of Indianapolis
Office of the Mayor
2501 City-County Building
200 East Washington Street
Indianapolis, Indiana 46204
Fax: _____
Attention: Mayor

If to the District, to:

Department of Public Works of the City of Indianapolis
[Address]
Indianapolis, Indiana [46____]
Fax: _____
Attention: Director

Indianapolis Sanitary District
[Address]
Indianapolis, Indiana [46____]
Fax: _____
Attention: Director

If to Citizens, to:

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Fax: (317) 927-4395
Attention: President and Chief Executive Officer

shall be deemed to have been given on the day of such mailing, transmission or deposit; and

any of the methods specified in Section 7.8(b) hereof shall be sufficient to deliver any notice required hereunder; notwithstanding that one or more of such methods may not be specifically listed in the Sections hereunder requiring such notice.

Performance Due on other than a Business Day. **If the last day for taking any action under this Agreement is a day other than a business day, such action may be taken on the next succeeding business day and, if so taken, shall have the same effect as if taken on the day required by this Agreement.**

Waiver of Assent. **Notice of acceptance of or other assent to this Agreement is hereby waived.**

Gender; Section Headings and Table of Contents.

Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa. Unless otherwise indicated, the words "hereof," "herein," "hereby" and "hereunder" or words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, clause or other portion of this Agreement.

Any headings preceding the texts of the several articles and sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

Entire Agreement. **This Agreement and the Purchase Agreement shall constitute the entire agreement of the Parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto.**

Effective Date. **This Agreement shall become effective at the Effective Time.**

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: _____

Printed: _____

Its: _____

DISTRICT

By: _____

Printed: _____

Its: _____

CITIZENS

By: _____

Printed: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Samantha Karn, Corporation Counsel, City of Indianapolis

Date: _____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the City, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the City.

WITNESS my hand and notarial seal.

(Seal)	_____ (Written Signature)
	_____ (Printed Signature) Notary Public
My Commission Expires:	My County of Residence:
_____	_____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the District, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the District.

WITNESS my hand and notarial seal.

(Seal)	_____ (Written Signature)
	_____ (Printed Signature) Notary Public
My Commission Expires:	My County of Residence:
_____	_____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this _____ day of _____, 2010, personally appeared _____, personally known to me to be the _____ of the Citizens, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of Citizens.

WITNESS my hand and notarial seal.

(Seal)

(Written Signature)

(Printed Signature) Notary Public

My Commission Expires:

My County of Residence:

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Signed:_____

This instrument was prepared by Anthony P. Aaron, Esquire, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.